

## REMARKS/ARGUMENTS

### Status of Claims:

In the application, claims 1-43 are currently pending, of which claims 1-26, 29 and 33-43 are withdrawn from consideration as non-elected claims. Among the remaining pending claims, claim 29 and 43 is currently amended to address typographical errors.

### Elections of claims and species:

Responsive to the restriction requirement in the Office Action dated March 29, 2006, the claims of Group VIII (Claims 27, 28 and 30-32, classified in class 435, subclass 97) are elected for prosecution with traverse. Further, based on the request to elect species within the elected Group of claims VIII, Applicant elects the following:



; and

(Claim 30) Moiety capable of being glycosylated is: **non-ribosomal peptides**;

Applicant reserves the right to file a continuing or divisional application or take such other appropriate action as deemed necessary to protect the non-elected inventions. Applicant does not hereby abandon or waive any rights in the non-elected inventions.

Arguments:

The classification of Groups I, II, III, V, VI, VIII, IX, into the same class 435 and subclass 97 indicates that searching elements of one Group of claims would inevitably result in searching elements in other Group of claims, accordingly such searches would not be unduly burdensome. Further, any search of methods related to a first nucleotide diphosphosugar would inevitably produce a co-extensive search on methods related to a second nucleotide diphosphosugar such that searches done for example of Group VIII (claims 27, 28 and 29-32) and Group IX (claim 29) and would not be burdensome.

Also, Applicant respectfully requests that the Examiner consider the relatedness between the elected ligatable moiety and the closely related ligatable moieties recited in the application. Thus for example in claim 27 drawn to the chemo-ligatable moieties, all moieties have a common triazole backbone. Applicant believes that search and examination of the elected ligatable moiety recited in this application should be substantially co-extensive with other related ligatable moieties. In view of the characteristics of the claimed subjects, one would not find it necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists. Therefore, no serious burden should be imposed on the Examiner. Accordingly, restriction in this instance appears improper and re-consideration is respectfully requested.

Applicant further submits that in conducting search for compositions in Groups XIV-XIX, the search is not burdensome since all compositions contain a common vancomycin backbone, having a sugar molecule (50), where each sugar molecule (50) has a substituent group R containing a triazole group. Therefore, Applicant believes that a search of one Group of these compositions is co-extensive with another Group of compositions. In view of the characteristics

of the claimed subjects, one would not find it necessary to search for one of the distinct subjects in places where no pertinent art to the other subject exists.

Applicant respectfully submits that the restriction of Groups I, II, III, V, VI, VIII, IX, and IV and Groups XIV-XIX is improper and should be withdrawn.

### **CONCLUSIONS**

It is respectfully submitted that restriction requirement for above listed groups be reconsidered and withdrawn. Further, Applicant respectfully submits that the currently pending claims 27, 28 and 30-32 are in condition for allowance and notice to that effect is earnestly solicited. The Examiner is urged to telephone the undersigned in the event a telephone discussion would be helpful in advancing the prosecution of the present application. The Office is further authorized to charge the processing fee or any other surcharges, or underpayment, including extension of time, as deemed necessary and appropriate to the Deposit Account 07-1509 of Godfrey & Kahn, S.C.

Respectfully submitted,

GODFREY & KAHN, S.C.

Dated: May 1, 2006

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